In the High Court of Judicature at Madras
Dated:16.12.2005

Coram:
The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mrs. Justice CHITRA VENKATARAMAN

Writ Petition Nos.14287 & 14288 of 2003

1. The Secretary to Government
   Health and Family Welfare
   Department, Fort St. George,
   Chennai 9.
   .. 1st Petnr. In both the Wps.,

2. The Director of Medical and
   Rural Health Services,
   Teynampet, Chennai 6.

3. The Joint Director of Health
   Services, Salem. ..Petitioners 2&3 in WP.14287/03

4. The Joint Director of Health
   Services, Namakkal. ..2nd Petnr. in WP.14288 of 2003

vs.

1. P. Dhanalakshmi

2. The Registrar
   Tamil Nadu Administrative Tribunal
   Chennai Bench.
   .. Respondents in both the Wps.,

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Petitions filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari as stated therein.

For petitioners :Mr. E. Sampath Kumar
Government Advocate

For respondents : Mr. L. Chandrakumar for R.1

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COMMON ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

Aggrieved by the common order passed by the Tamil Nadu Administrative Tribunal dated 07.10.2002 made in O.A.Nos.4777 of 1994 and 5258 of 2002, Health and Family Welfare Department has filed the above writ petitions.

2. In view of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the details as stated in the affidavit and counter affidavit filed by the respective parties.

3. It is seen that when the first respondent herein / applicant was proceeded against based on the charge memo by instituting disciplinary proceedings, she approached this Court by way of writ petition, viz., W.P.No.10186 of 1985. The said writ petition was transferred to the Tamil Nadu Administrative Tribunal as T.A.No.233 of 1990. The Tribunal, by order dated 19.02.1992, after finding that the Appellate Authority has not passed orders in accordance with law, remitted the matter to it with a direction to furnish copy of the enquiry report to the applicant and also give an opportunity before passing orders. It is further seen that the matter was taken up to the Supreme Court by the State by way of Special Leave Petition and the Supreme Court, dismissed the same. It is also seen that the Department has also filed Review Application in R.A.No.50 of 1993 and the same was also dismissed by the Tribunal, by its order dated 13.04.1993.

4. In the light of the order of the Tribunal directing the appellate authority to give an opportunity to the applicant and in view of the fact that nothing has moved thereafter, she approached the Tribunal by filing O.A.No.4777 of 1994, praying for regularisation of her earlier period of absence and also for other benefits, such as, increment, etc., The applicant also filed O.A.No.5258 of 2002, to direct the respondents to allow her to retire on superannuation. By the impugned order, the Tribunal, after finding that the Department has not taken effective steps till 2002, when the applicant reached superannuation, and after finding fault with the Department for their inaction, accepted her case and allowed both the applications.

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5. We perused the earlier order of the Tribunal dated 19.02.1992 and the subsequent orders as well as the conduct of the applicant and the Department. We are satisfied that had the Department taken necessary steps then and there or complied with the directions of the Tribunal dated 19.02.1992, fresh enquiry could have been concluded before her date of retirement. In the light of the inaction on the part of the Department, we have no other option except to accept the conclusion arrived at by the Tribunal. We do not find any valid ground for interference and accordingly, both the writ petitions fail and they are dismissed. No costs.

In view of dismissal of the writ petitions, the petitioners are directed to settle the retirement benefits to the applicant within a period of three months from the date of receipt of a copy of this order.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

TO
The Secretary to the Government
of Tamil Nadu Health and Family
Welfare Department
Fort St. George, Chennai 9

2. The Director of Medical and Rural Health Services,
Teynampet Chennai 6

3. The Joint Director of Health Services, Salem

4. The Joint Director of Health Services, Namakkal

5. The Registrar, Tamil Nadu Administrative Tribunal
Chennai Bench

+ one cc to the Government Pleader (sr 49493)

NG(CO)
NM(22.12.2005)

Common Order in
W.P.Nos.14287&14288/03

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